

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-077-00335R

Parcel No. 070/02622-000-000

Karen S Creek,

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

The appeal came on for written consideration before the Property Assessment Appeal Board (PAAB) on January 3, 2020. Karen S. Creek is self-represented and asked that the appeal proceed without a hearing. Assistant Polk County Attorney Mark Taylor represents the Polk County Board of Review.

Creek owns a residential property located at 4033 Amherst Street, Des Moines, Iowa. Its January 1, 2019, assessment was set at \$65,300, allocated as \$19,200 in land value and \$46,100 in building value. (Ex. A).

Creek petitioned the Board of Review writing in nearly every area of the form but it appears her overarching claim was that the property's assessment was inequitable when compared with the assessment of other like property in the taxing district and the property was assessed for more than the value authorized by law. Iowa Code § 441.37(1)(a)(1 & 2) (2019). The Board of Review denied the petition. (Ex. B).

She then appealed to PAAB marking the space reserved for an error claim but her plain statement indicates the "error" is that her property is over assessed. Therefore, this is the claim that PAAB will consider on appeal.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject property is a one-story home built in 1947. It has 616 square feet of gross living area, no basement, and an enclosed porch. The improvements are listed in below-normal condition with a 5+10 grade (below-average quality). There is also a detached garage built in 1964 listed in normal condition with a 4+00 grade (average quality). (Ex. A).

Creek asserts her home is not comparable to other homes in her neighborhood. (Petition). In support of this contention, she listed four properties located on Amherst Street assessed higher than her home. (Petition).

Creek indicated her home has a crawlspace and she must blow a fan in it during the winter so the pipes do not freeze. (Petition). She believes the crawl space depreciates the value of her home. (Appeal). She also noted “the house needs additional work...” and that “additional repairs” need to be made. (Appeal). Creek did not identify what repairs the home needs nor did she submit any other evidence such as photographs or estimates to correct deficiencies.

Creek reported an inspector from the Assessor's Office came to her home in 2017, at which time the assessment was lowered to \$57,200. (Petition & Appeal). She has not done any work to the property since that time and does not believe the value of her home should have increased; in fact, she believes it may have decreased. (Appeal). Creek did not provide an opinion of actual value of her property as of January 1, 2019.

The Board of Review acknowledged Creek's home does not have a basement and it is listed in below-normal condition. (Ex. D).

Analysis & Conclusions of Law

Creek contends the subject property's assessment is inequitable and the property is over assessed as provided under Iowa Code section 441.37(1)(a)(1 & 2). Creek bears the burden of proof.

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Creek offered no evidence of the Assessor applying an assessment method in a non-uniform manner.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after considering the actual values (2018 sales) and assessed values (2019) of comparable properties, the subject property is assessed at a higher proportion of its actual value. *Id.* Creek did not submit comparables for consideration; instead she indicated that properties in the neighborhood were superior to hers. This evidence is insufficient to prove her property is inequitably assessed under *Maxwell*.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted).

Creek contends her home does not conform to other nearby homes, in part because it does not have a basement and it needs repair. She asserts the January 1, 2019 assessment should be the same as her 2017 assessment. Creek did not provide any additional evidence of the property's value such as comparable sales, an appraisal, or a Comparable Market Analysis (CMA), which is typical evidence to support a claim of over assessment.

Creek expressed concerned her home requires additional repairs since it was last inspected by the Polk County Assessor's Office. The subject property is identified, for assessment purposes, as below-normal condition and of below-average quality. If she believes there may be additional concerns that have arisen regarding the condition of her home since the last assessment she may wish to request another inspection by the Assessor's Office prior to the next assessment cycle.

Viewing the record as a whole, we find Creek failed to prove the subject property inequitably assess or over assessed.

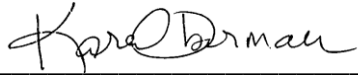
Order

PAAB HEREBY AFFIRMS the Polk County Board of Review's action.

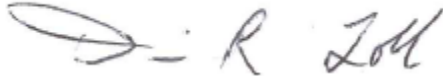
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2019).

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.


Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



Karen Oberman, Board Member



Dennis Loll, Board Member



Elizabeth Goodman, Board Member

Copies to:

Karen Creek by eFile

Polk County Board of Review by eFile